

SCHOOL DISTRICT OF SOUTH MILWAUKEE

901 15th Avenue

South Milwaukee, WI 53172

Phone 414-766-5053 • Fax 414-766-5039

E-mail bgannon@sdsd.k12.wi.us

July 30, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554
ELECTRONICALLY FILED VIA ECFS

Re CC Docket No. 02-6
In the matter of Request for Review by School District of South Milwaukee
of a Decision of the Universal Service Administrator

Dear Ms. Dortch,

With this letter School District of South Milwaukee ("SDSM") appeals a decision¹ by the Universal Service Fund Administrator to deny Invoice Deadline Extensions for certain funding requests under the schools and libraries universal service support mechanism (E-rate).

SDSM further requests that the Wireline Competition Bureau ("Bureau") exercise its best efforts to act on this appeal within the 90-day timeline specified at 47 CFR § 54.724. SDSM is mindful of the broad scope of responsibility shouldered by the Wireline Competition Bureau and is very respectful of the dedicated service rendered daily by Bureau staff. However, since unfortunately it is our students who will bear the consequences of our inability to effectively plan for the operation of the school while this matter is unresolved, we would ask only that the Bureau do its best to expedite its full examination of the evidence and to render a reasoned and fair decision.

Background

SDSM is comprised of four elementary schools, one middle school, and one high school. In addition to comprehensive curricular offerings, each school is supported by guidance counselors, an alcohol and drug abuse prevention program, opportunities for gifted and talented students, and special education services. We are grateful for the loyalty and commitment of our staff, and we are very proud of our students.

During a recent internal review within the school district of E-Rate funding applications and reimbursement receipts, SDSM recently learned that for three funding years we had

¹ See Exhibit A, attached

not actually received all of the funding for which we had applied and for which we were approved. This was a problem with only some of the funding requests for these years.

We've determined that the ultimate reasons for these errors were confusion coming from staff changes, and misunderstandings regarding whether certain service provider invoices did or did not include the effect of the E-Rate discount.

When we realized our mistake, we applied to USAC for Invoice Deadline Extensions, using the procedure posted on the USAC website. However, in each case USAC denied our request for an invoice deadline extension.

The staff and management of SDSM work hard to provide a quality education to our students, and to prepare our students to become productive and responsible citizens. The resources allocated to us are limited, and it would be only our students who would suffer if we were to be prevented from recovering the E-Rate funding which has already been committed to SDSM. In light of the circumstances, we believe USAC should have granted extensions for these funded funding requests.

Although SDSM management does exercise its best efforts to ensure absolute compliance with all E-Rate rules and deadlines, realistically it is beyond the control of AISD to totally eliminate the possibility of the isolated clerical or administrative error.

Analysis

Due to factors not reasonably within its control, SDSM was not able to file FCC Form 472s for its funding requests by the normal 120 day limit after the later of the end of the funding year and the Funding Commitment Decision Letter date. To the best of our knowledge, we are otherwise in full compliance with all FCC rules and USAC requirements. We therefore believe the Fund Administrator erred in rejecting our Invoice Deadline Extension Request.

In *Canon-McMillan School District*², the Wireline Competition Bureau ("Bureau") found that in cases where a staff change or inadvertent error by staff resulted in the late filing of the FCC Form 472, and where the applicants demonstrated that they made a good faith effort to comply with E-Rate program rules, good cause exists to direct USAC to process the applicant's Form 472 reimbursement application.

The Bureau noted that in these cases the applicants missed a procedural deadline and did not violate a substantive rule. In the *Bishop Perry Order*³, the Federal Communications Commission ("Commission") had found that, under certain circumstances, rigid adherence to certain E-rate rules and requirements that are "procedural" in nature does not promote the goals of section 254 of the Communications Act of 1934, as amended – ensuring access to discounted telecommunications and

² *Canon-McMillan School District Order*, 23 FCC Rcd 15555

³ *Bishop Perry Middle School Order*, 21 FCC Rcd 5316

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information services to schools and libraries – and therefore does not serve the public interest. The Bureau found in *Canon-McMillan School District* that this is especially true in the case of a late FCC Form 472 filing, where the applicants are at the end of the process and have already received service and complied with all other E-rate program rules to date.

The Bureau further noted in *Canon-McMillan School District* that denying the petitioners' requests would create undue hardship and prevent these otherwise eligible schools and libraries from receiving funding that they need to bring advanced telecommunications and information services to their students and patrons. That would certainly be the case if SDSM were to be denied the opportunity to request reimbursement for its eligible expenses. The consequences of a denial of funding would not further the purposes of section 254(h) of the Telecommunications Act of 1996 or serve the public interest.

Request for Relief

For the reasons stated in this letter, SDSM respectfully requests that the Commission direct USAC to extend the FCC Form 472 filing deadline for the E-rate funding requests cited in Exhibit A.

SCHOOL DISTRICT OF SOUTH MILWAUKEE

Brian Gannon

Brian Gannon

Student Learning and Technology Coordinator

Attached: Invoice Deadline Extension Request decisions ("Exhibit A")

EXHIBIT A
to Request for Review dated July 30, 2012
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USAC

Universal Service Administrative Company

Schools and Libraries Division

Administrator's Decision on Invoice Deadline Extension Request

June 14, 2012

Brian Gannon
School District of South Milwaukee
901 15th Avenue
S. Milwaukee, WI 53172-1625

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Line(s) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	178569		
Funding Request Number(s):	360291		
Your Correspondence Dated:	May 7, 2012		

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your invoice deadline extension request for the invoice number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your request included more than one invoice number, please note that for each invoice for which an invoice deadline extension request was submitted, a separate letter is being sent.

Invoice Number:	N/A	Line(s):	N/A
Decision on Request:			Denied

Explanation: Current guidelines and procedures require Invoice Deadline Extension requests to be filed by the end of the relevant invoice receipt period for the service category of the FRN requiring an extension (120 days after the end of the service delivery date). The extension request was not filed in a timely manner, so it is denied.

TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address for the person who can most readily discuss this appeal with us.

Schools and Libraries Division - Correspondence Unit
30 Landex Plaza West, PO Box 685, Parsippany, NJ 07054-C685
Visit us online at: www.usac.org/sl

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Universal Service Administrative Company

Schools and Libraries Division

Administrator's Decision on Invoice Deadline Extension Request

June 14, 2012

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School District of South Milwaukee
901 15th Avenue
S. Milwaukee, WI 53172-1625

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Line(s) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	621011		
Funding Request Number(s):	1720495, 1720560, 1720610, 1720674		
Your Correspondence Dated:	May 7, 2012		

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Schools and Libraries Division

Administrator's Decision on Invoice Deadline Extension Request

June 14, 2012

Brian Gannon
SOUTH MILWAUKEE SCHOOL DIST
901 15th Avenue
S. Milwaukee, WI 53172-1625

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Line(s) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	481886		
Funding Request Number(s):	1334805, 1341220		
Your Correspondence Dated:	May 7, 2012		

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